



MICHIGAN

OFFICE OF THE AUDITOR GENERAL

AUDIT REPORT

PERFORMANCE AUDIT
OF THE

HEALTH FACILITIES DIVISION

BUREAU OF HEALTH CARE SERVICES
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

March 2014



THOMAS H. MCTAVISH, C.P.A.
AUDITOR GENERAL

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– Article IV, Section 53 of the Michigan Constitution

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Michigan
Office of the Auditor General
REPORT SUMMARY

Performance Audit
Health Facilities Division
Bureau of Health Care Services
Department of Licensing and Regulatory
Affairs

Report Number:
641-0450-14

Released:
March 2014

The mission of the Bureau of Health Care Services (BHCS), Department of Licensing and Regulatory Affairs (LARA), is to protect, preserve, and improve the health, safety, and welfare of Michigan's citizens through the licensing and regulation of health facilities, health professionals, and long-term care facilities. The Health Facilities Division (HFD) contributes to BHCS's mission by issuing licenses; performing surveys and inspections; and investigating complaints of health facilities, agencies, and programs.

Audit Objective:

To assess the effectiveness of HFD's efforts to issue State licenses and/or complete federal certification activities for health facilities, agencies, and programs as required by State statutes and/or federal rules.

Audit Conclusions:

We concluded that HFD's efforts to issue State licenses and/or complete federal certification activities for health facilities, agencies, and programs as required by State statutes and/or federal rules were not effective for substance abuse treatment programs and clinical laboratories. We noted two material conditions (Findings 1 and 2).

We also concluded that HFD's efforts to issue State licenses and/or complete federal certification activities for health facilities, agencies, and programs as required by State statutes and/or federal rules were moderately effective for

hospitals; hospices; hospice residences; freestanding surgical outpatient facilities; and psychiatric hospitals, units, and programs. We noted two reportable conditions (Findings 3 and 4).

Material Conditions:

HFD renewed licenses of substance abuse treatment programs without conducting statutorily required State inspections. Also, HFD did not ensure that its data systems contained accurate information for substance abuse treatment programs (Finding 1).

HFD neither issued statutorily required licenses to clinical laboratories operating in Michigan nor obtained amendatory legislation to suspend the State licensing of clinical laboratories and place reliance on the federal clinical laboratory certification procedures for ensuring that clinical laboratories comply with health and safety standards for accurate and timely testing results (Finding 2).

Reportable Conditions:

HFD had not informed hospitals of the statutorily available waiver of required biennial surveys. Also, HFD did not conduct statutorily required biennial surveys of hospitals (Finding 3).

HFD did not perform all statutorily required surveys of hospices; freestanding surgical outpatient facilities; hospice residences; and psychiatric hospitals, units, and programs. Also, HFD did not have a formal policy to prioritize and schedule all required surveys of nonfederally licensed or certified health facilities and agencies (Finding 4).

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Audit Objective:

To assess the effectiveness of HFD's efforts to appropriately and timely resolve complaints filed against health facilities, agencies, and programs.

Audit Conclusion:

We concluded that HFD's efforts to appropriately and timely resolve complaints filed against health facilities, agencies, and programs were effective. However, we noted one reportable condition (Finding 5).

Reportable Condition:

HFD did not initiate investigations of complaints filed against health facilities, agencies, and programs in a timely manner (Finding 5).

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Agency Response:

Our audit report contains 5 findings and 8 corresponding recommendations. HFD's preliminary response indicates that it agrees with all of our recommendations.

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A copy of the full report can be obtained by calling 517.334.8050 or by visiting our Web site at: <http://audgen.michigan.gov>



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March 13, 2014

Ms. Carole H. Engle, Director
Bureau of Health Care Services
and
Mr. Steve Arwood, Director
Department of Licensing and Regulatory Affairs
Ottawa Building
Lansing, Michigan

Dear Ms. Engle and Mr. Arwood:

This is our report on the performance audit of the Health Facilities Division, Bureau of Health Care Services, Department of Licensing and Regulatory Affairs.

This report contains our report summary; a description of agency; our audit objectives, scope, and methodology and agency responses and prior audit follow-up; comments, findings, recommendations, and agency preliminary responses; two exhibits, presented as supplemental information; and a glossary of abbreviations and terms.

Our comments, findings, and recommendations are organized by audit objective. The agency preliminary responses were taken from the agency's response at the end of our audit fieldwork. The *Michigan Compiled Laws* and administrative procedures require that the audited agency develop a plan to comply with the audit recommendations and submit it within 60 days after release of the audit report to the Office of Internal Audit Services, State Budget Office. Within 30 days of receipt, the Office of Internal Audit Services is required to review the plan and either accept the plan as final or contact the agency to take additional steps to finalize the plan.

We appreciate the courtesy and cooperation extended to us during this audit.

Sincerely,

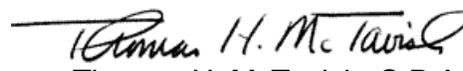

Thomas H. McTavish, C.P.A.
Auditor General

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BUREAU OF HEALTH CARE SERVICES
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**

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Description of Agency

The mission* of the Bureau of Health Care Services (BHCS), Department of Licensing and Regulatory Affairs (LARA), is to protect, preserve, and improve the health, safety, and welfare of Michigan's citizens through the licensing and regulation of health facilities, health professionals, and long-term care facilities. The Health Facilities Division (HFD) contributes to BHCS's mission by issuing licenses; performing surveys and inspections; and investigating complaints of health facilities, agencies, and programs* to protect and ensure compliance with the regulatory system as set forth in the Public Health Code, while at the same time protecting Michigan's vulnerable population.

HFD is responsible for licensing, certifying, inspecting, and/or surveying approximately 11,000 health facilities, agencies, and programs, including acute care hospitals; clinical laboratories; comprehensive outpatient rehabilitation facilities; end stage renal dialysis facilities; freestanding surgical outpatient facilities (or ambulatory surgical centers); home health agencies; hospices and hospice residences; outpatient physical and speech therapy providers; portable x-ray providers; psychiatric hospitals, units, and programs; rural health clinics; and substance abuse treatment programs (see Exhibit 1).

The objective of these licensing and certification* activities is to verify compliance with State license and federal certification standards by conducting licensing inspections and federal certification surveys at health facilities, agencies, and programs; reviewing plans of construction and renovation in health facilities; providing technical assistance in meeting those standards; pursuing appropriate corrective action for noted deficiencies from licensing and certification activities; and investigating complaints received against health facilities, agencies, and programs.

HFD also administered the licensing of radiation safety machines until September 16, 2013 when the LARA director transferred all authority, powers, duties, and functions of the Radiation Safety Section from BHCS to the Michigan Occupational Safety and Health Administration.

* See glossary at end of report for definition.

HFD was located within BHCS in LARA during the audit period. However, HFD's duties were housed within the Department of Community Health until Executive Order No. 2011-4 transferred the duties to LARA effective April 23, 2011. HFD had 64 staff as of October 1, 2013.

Audit Objectives, Scope, and Methodology and Agency Responses and Prior Audit Follow-Up

Audit Objectives

Our performance audit* of the Health Facilities Division (HFD), Bureau of Health Care Services, Department of Licensing and Regulatory Affairs (LARA), had the following objectives:

1. To assess the effectiveness* of HFD's efforts to issue State licenses and/or complete federal certification activities for health facilities, agencies, and programs as required by State statutes and/or federal rules.
2. To assess the effectiveness of HFD's efforts to appropriately and timely resolve complaints filed against health facilities, agencies, and programs.

Audit Scope

Our audit scope was to examine the licensing, complaint, and other records of the Health Facilities Division. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our audit procedures, which included a preliminary survey, audit fieldwork, report preparation, analysis of agency responses, and quality assurance, generally covered the period May 1, 2011 through July 31, 2013.

As part of our audit report, we included supplemental information that relates to our audit objectives and findings (Exhibits 1 and 2). Our audit was not directed toward expressing an opinion on this information and, accordingly, we express no opinion on it.

Audit Methodology

We conducted a preliminary review of HFD's operations to formulate a basis for defining the audit objectives and scope. Our preliminary review included interviewing HFD staff; reviewing applicable State statutes, State regulations, and federal rules; and analyzing

* See glossary at end of report for definition.

available data and statistics to obtain an understanding of HFD's operational activities, including inspections and investigations performed.

To assess the effectiveness of HFD's efforts to issue State licenses and/or complete federal certification activities for health facilities, agencies, and programs as required by State statutes and/or federal rules, we identified the health facilities for which HFD is statutorily required to perform State inspections and/or federal certification surveys to issue initial licenses and periodically thereafter. We reviewed the procedures and processes for assigning, completing, and monitoring inspections, licensing, and certification activities of health facilities for State inspections and federal surveys. We performed selected testing of licenses issued and inspections completed. We compared the requirements to receive a State license and a federal certification for the clinical laboratories. We reviewed the waiver process to allow hospitals to use their accreditation reports in place of a State inspection. We reviewed the Centers for Medicare and Medicaid Services* (CMS) State Agency Performance Review Reports, including HFD's planned corrective action for CMS-noted issues related to HFD meeting performance measures. We reviewed fee requests that HFD initiated for health facilities during the audit period and the revenues and expenditures to obtain an understanding of the sources and uses of funding for HFD during the audit period.

To assess the effectiveness of HFD's efforts to appropriately and timely resolve complaints filed against health facilities, agencies, and programs, we reviewed HFD's process for responding to complaints filed against State licensed and federally certified health facilities, including the complaint receipt, priority determination, complaint investigation, corrective action determination and taking of the appropriate action, and issuance of a letter to the complainant regarding the resolution of the complaint. We analyzed the timeliness of HFD's processing of all open complaints as of May 1, 2011 and the processing of complaints received from May 1, 2011 through July 31, 2013.

When selecting activities or programs for audit, we use an approach based on assessment of risk and opportunity for improvement. Accordingly, we focus our audit efforts on activities or programs having the greatest probability for needing improvement as identified through a preliminary review. Our limited audit resources are used, by design, to identify where and how improvements can be made. Consequently, we prepare our performance audit reports on an exception basis.

* See glossary at end of report for definition.

Agency Responses and Prior Audit Follow-Up

Our audit report contains 5 findings and 8 corresponding recommendations. HFD's preliminary response indicates that it agrees with all of our recommendations.

The agency preliminary response that follows each recommendation in our report was taken from the agency's written comments and oral discussion at the end of our audit fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and the State of Michigan Financial Management Guide (Part VII, Chapter 4, Section 100) require LARA to develop a plan to comply with the audit recommendations and submit it within 60 days after release of the audit report to the Office of Internal Audit Services, State Budget Office. Within 30 days of receipt, the Office of Internal Audit Services is required to review the plan and either accept the plan as final or contact the agency to take additional steps to finalize the plan.

We released our prior performance audit of the Bureau of Health Systems, Department of Community Health (63-450-03), in January 2005. Within the scope of this audit, we followed up 5 of the 7 prior audit recommendations. We repeated the 5 prior audit recommendations in Findings 1, 2, and 4 of this audit report.

COMMENTS, FINDINGS, RECOMMENDATIONS,
AND AGENCY PRELIMINARY RESPONSES

EFFECTIVENESS OF HFD'S EFFORTS TO ISSUE STATE LICENSES AND/OR COMPLETE REQUIRED FEDERAL CERTIFICATION ACTIVITIES

COMMENT

Background: As of July 31, 2013, the Health Facilities Division (HFD) was responsible for the State licensing and/or federal certification of approximately 11,000 non-nursing home health facilities. The Bureau of Health Care Services (BHCS) is the State agency used by the Centers for Medicare and Medicaid Services (CMS) to perform federal certification reviews of the health facilities, agencies, and programs in Michigan. CMS requires health facilities, agencies, and programs to periodically demonstrate that they meet federal certification requirements to receive Medicare and Medicaid funding from the U.S. Department of Health and Human Services.

Audit Objective: To assess the effectiveness of HFD's efforts to issue State licenses and/or complete federal certification activities for health facilities, agencies, and programs as required by State statutes and/or federal rules.

Audit Conclusions: We concluded that HFD's efforts to issue State licenses and/or complete federal certification activities for health facilities, agencies, and programs as required by State statutes and/or federal rules were not effective for substance abuse treatment programs and clinical laboratories. We also concluded that HFD's efforts to issue State licenses and/or complete federal certification activities for health facilities, agencies, and programs as required by State statutes and/or federal rules were moderately effective for hospitals; hospices; hospice residences; freestanding surgical outpatient facilities (FSOFs); and psychiatric hospitals, units, and programs.

Our conclusions were based on our audit efforts as described in the audit scope and audit methodology sections and the resulting material conditions* and reportable conditions* noted in the comments, findings, recommendations, and agency preliminary responses section.

* See glossary at end of report for definition.

We noted two material conditions and two reportable conditions related to the 7 types of health facilities, agencies, and programs reviewed. In our professional judgment, the material conditions are more severe than a reportable condition and could adversely affect the judgment of an interested person concerning whether substance abuse treatment programs and clinical laboratories operated in compliance with State requirements:

- HFD renewed licenses of substance abuse treatment programs without conducting statutorily required State inspections. Also, HFD did not ensure that its data systems contained accurate information for substance abuse treatment programs (Finding 1).
- HFD neither issued statutorily required licenses to clinical laboratories operating in Michigan nor obtained amendatory legislation to suspend the State licensing of clinical laboratories and place reliance on the federal clinical laboratory certification procedures for ensuring that clinical laboratories comply with health and safety standards for accurate and timely testing results (Finding 2).

In our professional judgment, the reportable conditions are less severe than a material condition but represent either opportunities for improvement or significant deficiencies in internal control* that impacted the effectiveness of HFD's efforts in licensing or certifying health facilities and agencies. The reportable conditions related to the licensing of hospitals and the licensing of health facilities and agencies (Findings 3 and 4).

We applied our audit procedures to the State licensing and federal certification activities that HFD performed for the 7 types of health facilities, agencies, and programs during the audit period, which totaled 9,674. We concluded that the following health facilities, agencies, and programs were not evaluated for State licensing requirements: 97.2% of 1,248 substance abuse treatment programs; 89.0% of 7,906 clinical laboratories; 100.0% of 169 hospitals; 55.2% of 116 hospices; 76.2% of 21 hospice residences; 39.2% of 125 FSOs; and 100.0% of 89 psychiatric hospitals.

Also, we evaluated qualitative factors, such as the fact that the health facilities, agencies, and programs are subject to CMS federal oversight for receiving Medicare or Medicaid funding or are subject to review by an accrediting organization in addition to

* See glossary at end of report for definition.

HFD performing the State inspections. We noted that the following health facilities and agencies were subject to federal or accredited reviews: 11.0% of the clinical laboratories; 90.5% of the hospitals; 72.1% of the hospices and hospice residences; 62.6% of FSOFs; and 100.0% of the psychiatric hospitals.

In reaching our first conclusion, we considered the two material conditions and the lack of federal or accrediting organization reviews. In reaching our second conclusion, we considered the two reportable conditions that related to the 5 types of health facilities and agencies subject to audit and the licensing and inspection activity performed by HFD and the federal certifications or accredited reviews conducted on the 5 types of health facilities and agencies. We believe that the results of our audit efforts provide a reasonable basis for our conclusions for this audit objective.

FINDING

1. Licensing of Substance Abuse Treatment Programs

HFD renewed licenses of substance abuse treatment programs without conducting statutorily required State inspections. Also, HFD did not ensure that its data systems contained accurate information for substance abuse treatment programs. As a result, HFD could not ensure that programs were in compliance with State health and safety standards. In addition, HFD could not properly track and identify the status of programs when performing its licensing function.

Michigan Administrative Code R 325.14205 requires that the State perform inspections of substance abuse treatment programs within three months after the receipt of an application for a new license or annually within three months of the expiration of the current license. The Code also requires that HFD not issue or renew licenses until it has completed the required inspections and documented favorable determinations.

In July 2013, HFD mailed renewal notices to all 1,745 licensed substance abuse treatment programs listed as currently licensed in its on-line License 2000®* (L2000) System to inform them that their current licenses would expire on July 31, 2013. As of September 26, 2013, HFD received 1,248 (71.5%) license renewals

* See glossary at end of report for definition.

and 208 (11.9%) undeliverable letters and 289 (16.6%) programs did not respond. Our review of HFD's license renewal process disclosed:

- a. HFD did not perform the required inspections within three months of the expiration of the licenses for the programs that applied for renewal. As a result, HFD issued 1,213 (97.2%) of the 1,248 licenses without conducting an inspection. HFD did not assign a staff person until March 2013 to perform required inspections; however, HFD did not feel that its lack of staffing should delay issuing licenses.
- b. HFD's database did not contain accurate licensure status information for all substance abuse treatment programs. We randomly selected 20 of the 208 programs for which HFD received undeliverable letters and noted that 10 (50.0%) of the 20 programs were listed with a status of active in the L2000 System and on the Department of Licensing and Regulatory Affairs (LARA) Web site after the license expiration date.

HFD informed us that it converted the substance abuse treatment program licensing data from the Substance Abuse Licensure System (SALS) to the L2000 System in June 2013 even though SALS contained inaccurate data. HFD used this inaccurate data to update the LARA Web site used by the public to obtain information on substance abuse treatment programs licensed in Michigan. HFD also informed us that it has requested that management remove the SALS database and associated information from the Web site; however, management has not approved these requests.

We noted a similar condition in our prior audit. In response to that audit report, the Bureau of Health Systems (now BHCS) indicated that it agreed with the recommendation and informed us that it had implemented procedures to ensure that data entered into the data systems was accurate. However, inaccurate data remained in the data systems.

RECOMMENDATIONS

We recommend that HFD conduct statutorily required State inspections of substance abuse treatment programs prior to renewing their licenses.

We again recommend that HFD ensure that its data systems contain accurate information for substance abuse treatment programs.

AGENCY PRELIMINARY RESPONSE

HFD agrees and indicated that, in January 2013, BHCS reassigned the State licensing activities for substance abuse disorder programs to the newly created State Licensing Section to address and help ensure that BHCS met *Michigan Administrative Code* requirements. HFD informed us that BHCS also reallocated resources and established a regulatory officer position to help ensure that the State Licensing Section conducts annual inspections of licensed programs.

HFD also informed us that in July 2013 BHCS implemented a process to require annual license renewals of substance abuse disorder programs. HFD explained that, prior to this, licenses were issued as nonexpiring and stated that annual renewals, as required by the *Michigan Administrative Code*, help to ensure that information on existing licensed data systems are up to date and accurate.

In addition, HFD informed us that LARA is taking steps for long-term systematic changes in this licensing program. HFD stated that there is no statutory licensing fee for substance abuse disorder programs and explained that LARA has submitted a recommendation to establish a licensing fee to support this State licensing activity as required by Act 200, P.A. 2012, and Act 59, P.A. 2013. HFD indicated that BHCS is also working to revise the applicable administrative rules to change the schedule of inspections for licensed programs from annual to triennial in order to reduce the cost of the program and the regulatory burden on the licensed providers while still ensuring routine inspections to protect the health and welfare of Michigan residents.

FINDING

2. Licensing of Clinical Laboratories

HFD neither issued statutorily required licenses to clinical laboratories operating in Michigan nor obtained amendatory legislation to suspend the State licensing of clinical laboratories and place reliance on the federal clinical laboratory certification procedures for ensuring that clinical laboratories comply with health and safety standards for accurate and timely testing results. As a result, HFD could not

ensure that all clinical laboratories requiring a State license were properly monitored and operated in compliance with State law.

A clinical laboratory is any facility that conducts examinations of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment to the health of human beings. These examinations also include procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body. Section 333.20511 of the *Michigan Compiled Laws* requires that selected clinical laboratories be licensed and that visits be made at least biennially to the laboratories for the purposes of survey, evaluation, and consultation.

In addition to fulfilling State statutory requirements, clinical laboratories must have a Clinical Laboratory Improvement Amendments of 1988 (CLIA) certification in order to operate. The federal CLIA requires laboratories, including physician office laboratories, to meet applicable federal requirements to receive certification.

HFD did not issue State licenses to clinical laboratories operating in Michigan. HFD informed us that State licensing of clinical laboratories operating in Michigan was suspended in 1992 and that it did not know the basis used to suspend the program.

According to federal records, there are 7,906 CLIA certified clinical laboratories operating in the State. HFD had not conducted the required State biennial visits for 7,037 (89.0%) of the 7,906 laboratories to determine if the facilities met State licensing requirements. Although 869 (11.0%) of the 7,906 laboratories received biennial on-site surveys in accordance with federal CLIA standards, HFD could not utilize these federal certifications or on-site surveys in place of State licensure and State biennial visits because State statutes did not allow their use.

We noted a similar situation in our prior audit. In response to that audit, the Bureau of Health Systems (now BHCS) indicated that it agreed with the recommendations and would draft legislation that would repeal the State licensure program for clinical laboratories. However, draft legislation was neither completed nor submitted for consideration.

RECOMMENDATION

We again recommend that HFD either issue statutorily required licenses to clinical laboratories operating in Michigan or obtain amendatory legislation to suspend the State licensing of clinical laboratories and place reliance on the federal clinical laboratory certification procedures.

AGENCY PRELIMINARY RESPONSE

HFD agrees and informed us that LARA has submitted a recommendation to rescind the Public Health Code requiring State licensure of clinical laboratories as required by Act 63, P.A. 2011; Act 200, P.A. 2012; and Act 59, P.A. 2013. HFD also informed us that BHCS is taking steps to evaluate the cost and the steps necessary to reconstitute, if necessary, the State licensing program for clinical laboratories.

FINDING

3. Licensing of Hospitals

HFD had not informed hospitals of the statutorily available waiver of required biennial surveys. Also, HFD did not conduct statutorily required biennial surveys of hospitals. As a result of not utilizing the waiver process, HFD did not efficiently fulfill its statutory mandates. In addition, HFD could not ensure that all licensed hospitals operated in substantial compliance with State requirements, potentially compromising the public health or safety of individuals using these hospitals.

Section 333.20155(9) of the *Michigan Compiled Laws* requires HFD to make a biennial visit to each hospital for survey and evaluation for the purpose of licensure. However, Section 333.20155(11) also allows HFD to waive the required biennial visit if a hospital, as part of a timely application for license renewal, requests a waiver and submits proof of accreditation where there is no indication of noncompliance or deficiencies in the accreditation report.

Of the 169 hospitals that HFD licensed during our audit period:

- a. We noted that 153 (90.5%) hospitals were accredited* and may be eligible to request waivers. If HFD informed hospitals of the available waiver process, this could potentially reduce HFD's required inspection work load.
- b. We noted that 16 (9.5%) hospitals did not have an accreditation. HFD had not conducted biennial State surveys of 8 of these hospitals in eight years or more, and it had no record of a State survey being conducted for the remaining 8 hospitals.

Although HFD established the State Licensing Section in January 2013 to resume conducting State licensing activities of health facilities, agencies, and programs, HFD informed us that staff work loads prevented the staff from conducting hospital surveys.

RECOMMENDATIONS

We recommend that HFD inform hospitals of the statutorily available waiver of required biennial surveys.

We also recommend that HFD conduct statutorily required biennial surveys of hospitals.

AGENCY PRELIMINARY RESPONSE

HFD agrees and informed us that BHCS has developed plans to promote the waiver inspection provision available to hospitals under Section 333.20155(9) of the *Michigan Compiled Laws*. HFD stated that BHCS will utilize the on-line licensing system to allow hospitals to easily apply for a waiver of inspection during the annual renewal process. HFD indicated that this new feature should be available to hospitals in July 2014, the next scheduled renewal date for all State licensed hospitals.

HFD also informed us that in January 2013 BHCS created a new State Licensing Section to address and help ensure that BHCS met statutory and *Michigan*

* See glossary at end of report for glossary

Administrative Code requirements. HFD indicated that BHCS reallocated resources and established three State licensing health care surveyor positions to help ensure that the State Licensing Section conducted annual inspections of licensed programs.

In addition, HFD informed us that, with the use of the waiver and the staffing of the State Licensing Section, BHCS plans to begin biennial State inspections of hospitals in 2014. Hospitals inspected in 2014 will be inspected again in 2016 and those hospitals inspected in 2015 will be inspected again in 2017.

FINDING

4. Licensing of Health Facilities and Agencies

HFD did not perform all statutorily required surveys of hospices; freestanding surgical outpatient facilities (FSOFs); hospice residences; and psychiatric hospitals, units, and programs. Also, HFD did not have a formal policy to prioritize and schedule all required surveys of nonfederally licensed or certified health facilities and agencies. As a result, HFD could not ensure that all these licensed or certified health facilities and agencies operated in substantial compliance with State requirements and that the public health and safety was safeguarded.

Section 333.20155(1) of the *Michigan Compiled Laws* requires HFD to visit each hospice and FSOF at least annually for the purposes of survey, evaluation, and consultation. Section 333.20155(8) of the *Michigan Compiled Laws* requires HFD to visit each hospice residence at least biennially for the purposes of survey, evaluation, and consultation. *Michigan Administrative Code* R 330.1232 indicates that on-site surveys and comprehensive evaluations of the program of a psychiatric hospital or unit is permitted at any reasonable time and that surveys may be completed at any reasonable time for the purpose of determining whether the psychiatric hospital or unit meets the State's physical and operational standards. Industry standards issued by the Joint Commission* and the Healthcare Facilities Accreditation Program for accredited facilities include surveys every three years.

* See glossary at end of report for definition.

Our analysis of HFD surveys completed for the following licensed health facilities and agencies as of August 8, 2013 disclosed:

Survey Status	Hospice (1)	FSOF (1)	Hospice Residence (2)	Psychiatric Hospital, Unit, or Program (3)
Surveys overdue:				
No HFD survey date recorded	42	22	10	84
More than 5 years	16	14	5	2
More than 4 years but less than 5 years	3	0	0	2
More than 3 years but less than 4 years	2	1	0	1
More than 2 years but less than 3 years	0	3	1	0
More than 1 year but less than 2 years	1	9	0	0
Subtotal	64	49	16	89
Surveys completed on a timely basis	52	76	5	0
Total	116	125	21	89

(1) An annual survey is required.

(2) A biennial survey is required.

(3) The industry standard for accredited facilities is a survey every three years.

HFD informed us that it had assigned higher priority for the survey and certification of health facilities and agencies receiving federal Medicare and Medicaid funding, thus decreasing the available HFD resources to monitor State-licensed health facilities and agencies. Also, although HFD established the State Licensing Section in January 2013 and resumed conducting State licensing surveys for hospices, FSOFs, and hospice residences, HFD had not established a formal policy to effectively prioritize and schedule all required surveys to ensure that these health facilities and agencies met State licensing requirements.

We noted a similar situation in our prior audit. In response to that audit, the Bureau of Health Systems (now BHCS) indicated that it agreed with the recommendations and would update its policies and procedures to reflect the scheduling priorities for surveys of these health facilities and agencies. However, HFD did not update policies and procedures and not all of the surveys were completed as required.

RECOMMENDATIONS

We again recommend that HFD perform all statutorily required surveys of hospices; FSOFs; hospice residences; and psychiatric hospitals, units, and programs.

We also again recommend that HFD establish a formal policy to prioritize and schedule all required surveys of nonfederally licensed or certified health facilities and agencies.

AGENCY PRELIMINARY RESPONSE

HFD agrees and informed us that, in January 2013, BHCS created a new State Licensing Section to address and help ensure that BHCS met statutory and *Michigan Administrative Code* requirements. HFD stated that, in its first year of operation (January 2013 to the end of January 2014), the new Section completed all 141 required annual inspections of State licensed hospices and all 124 required annual inspections of FSOFS. HFD also stated that this was the first time in decades that all licensed hospices and surgical centers have had an annual State inspection. HFD indicated that BHCS reallocated resources and established three State licensing health care surveyor positions to help ensure that the State Licensing Section conducted annual inspections of licensed programs. HFD also indicated that, in 2014, BHCS plans to add biennial State inspections of hospitals, including freestanding inpatient psychiatric hospitals and psychiatric units within hospitals.

HFD also informed us that LARA is taking steps for long-term systematic changes in this licensing program. HFD stated that there is no statutory licensing fee for hospice agencies and explained that LARA has submitted a recommendation to establish a licensing fee to support this State licensing activity as required by Act 63, P.A. 2011; Act 200, P.A. 2012; and Act 59, P.A. 2013. HFD indicated that LARA also has recommended statutory changes to require triennial instead of annual and biennial inspections for all State licensed health facilities and agencies. HFD explained that the recommendation to revise the inspection schedule is designed to reduce the cost of the program and the regulatory burden on the licensed providers while still ensuring routine inspections to protect the health and welfare of Michigan residents. HFD also explained that LARA, in response to Act 59, P.A. 2013, is recommending statutory changes to allow an inspection

waiver provision to all State licensed health facilities similar to the existing provision for licensed hospitals under Section 333.20155 of the *Michigan Compiled Laws*.

EFFECTIVENESS OF HFD'S EFFORTS TO APPROPRIATELY AND TIMELY RESOLVE COMPLAINTS

COMMENT

Background: HFD received over 1,500 complaints filed against licensed health facilities, agencies, and programs from May 1, 2011 through July 31, 2013. In addition, HFD was responsible for 969 complaints filed against health facilities, agencies, and programs open as of May 1, 2011. BHCS is the State agency that acts on CMS's behalf to prioritize and investigate these complaints based on the requirements of the State Operations Manual.

Audit Objective: To assess the effectiveness of HFD's efforts to appropriately and timely resolve complaints filed against health facilities, agencies, and programs.

Audit Conclusion: **We concluded that HFD's efforts to appropriately and timely resolve complaints filed against health facilities, agencies, and programs were effective.**

Our audit conclusion was based on our audit efforts as described in the audit scope and audit methodology sections and the resulting reportable condition noted in the comments, findings, recommendations, and agency preliminary responses section.

We noted one reportable condition in our review of the complaints filed against State licensed and federally certified health facilities, agencies, and programs. In our professional judgment, this reportable condition is less severe than a material condition but represented an opportunity for improvement in HFD's internal control over the process to timely prioritize, investigate, and follow up complaints filed against State licensed and federally certified health facilities, agencies, and programs. The reportable condition related to complaints (Finding 5).

We applied our audit procedures to the over 1,500 complaints received that were filed against licensed health facilities, agencies, and programs from May 1, 2011 through July 31, 2013 and the 969 complaints open as of May 1, 2011. Our sample results indicated that HFD appropriately processed complaints; however, HFD did not timely process complaints.

In addition, we evaluated qualitative factors, such as the severity of the complaints received during the audit period. As a result of this review, nothing came to our attention that would have a significant impact on our conclusion regarding the appropriateness and timeliness of the processing of complaints.

In reaching our audit conclusion, we considered the opportunity for improvement, the testing results indicating appropriate processing of complaints, and the severity level of the complaints received. We believe that the results of our audit efforts provide a reasonable basis for our audit conclusion for this audit objective.

FINDING

5. Complaints

HFD did not initiate investigations of complaints filed against health facilities, agencies, and programs in a timely manner. As a result, HFD did not timely address issues brought to its attention and determine if it should initiate corrective actions to protect beneficiaries from abuse, neglect, exploitation, and inadequate care or supervision.

The State Operations Manual issued by CMS describes the HFD complaint process, including the method to prioritize complaints for investigation, the method to investigate the complaints, and the time period to perform the investigations of complaints.

HFD received over 1,500 complaints filed against health facilities, agencies, and programs between May 1, 2011 and July 31, 2013. We analyzed these complaints and noted that 294 were subject to an investigation during the audit period. Our analysis of these 294 complaints disclosed that 52 (17.7%) investigations were not timely initiated, ranging from 6 days to 171 days for an average of 76 days.

HFD also had 969 open complaints filed against health facilities, agencies, and programs as of May 1, 2011. We analyzed these complaints and noted that 18 of the 969 complaints were subject to an investigation during the audit period. Our analysis of these 18 complaints disclosed that 5 (27.8%) investigations were not timely initiated, ranging from 870 days to 3,583 days for an average of 1,622 days.

HFD informed us that, because it did not have one specific staff person assigned to coordinate the prioritization and investigation of complaints upon receipt, the complaints were reviewed late and HFD did not initiate complaint investigations within the required time frames. In response to corrective action required to meet CMS performance measures and to more timely respond to complaints, HFD assigned a staff person to coordinate the complaint process in October 2012. However, an analysis of complaints received after October 2012 disclosed that HFD did not timely initiate an investigation for 24 (19.8%) of 121 complaints.

RECOMMENDATION

We recommend that HFD initiate investigations of all complaints filed against health facilities, agencies, and programs in a timely manner.

AGENCY PRELIMINARY RESPONSE

HFD agrees and informed us that, in October 2012, BHCS reassigned the responsibility for complaint intake and processing from the former Bureau of Health System Operations to HFD due to a backlog of pending complaint intakes. HFD stated that, in October 2012, HFD reassigned a health care surveyor to assist with the non-long-term care complaint intake and investigations. HFD also stated that, subsequent to the audit fieldwork, BHCS reallocated resources to establish a new analyst position within HFD to help address the timely intake, processing, and investigation of complaints along with other functions. HFD indicated that it has completed interviews for this new position and expects the analyst to be in place by March 2014.

SUPPLEMENTAL INFORMATION

HEALTH FACILITIES DIVISION
Bureau of Health Care Services
Department of Licensing and Regulatory Affairs
State License and/or Federal Certification Requirements by Type of Health Facility, Agency, or Program
As of July 31, 2013

Health Facilities, Agencies, and Programs	Total Licenses or Certifications	State License Required	Federal Certification Option	Deemed Status (1) Option Available	Deeming Authority (2) Accrediting Organizations (3)
Acute care hospitals	169	Yes	Yes	Yes	JC, AOA/HFAP, CIHQ, DNV
Clinical laboratories	7,906	Yes	Yes	Yes	JC, CHAP, COLA, AABB, ASHI, AOA
Comprehensive outpatient rehabilitation facilities	14	No	Yes	No	None
End stage renal dialysis facilities	178	No	Yes	No	None
Freestanding surgical outpatient facilities (or ambulatory surgical centers)	125	Yes	Yes	Yes	JC, AAAASF, AAAHC, AOA/HFAP
Home health agencies	670	No	Yes	Yes	CHAP, ACHC, JC
Hospices and hospice residences	137	Yes	Yes	Yes	CHAP, ACHC, JC
Outpatient physical and speech therapy providers	196	No	Yes	Yes	AAAASF
Portable x-ray providers	9	Yes	Yes	No	None
Psychiatric hospitals, units, and programs	89	Yes	Yes	Yes	JC, AOA/HFAP, CIHQ, DNV
Rural health clinics	152	No	Yes	Yes	AAAASF
Substance abuse treatment programs	1,248	Yes	No	No	None

(1) Deemed status is the designation by the Centers for Medicare and Medicaid Services (CMS) that an M+C (Medicare + Choice) organization has been reviewed and has demonstrated that it met standards to be determined "fully accredited" by an accrediting organization approved by CMS.

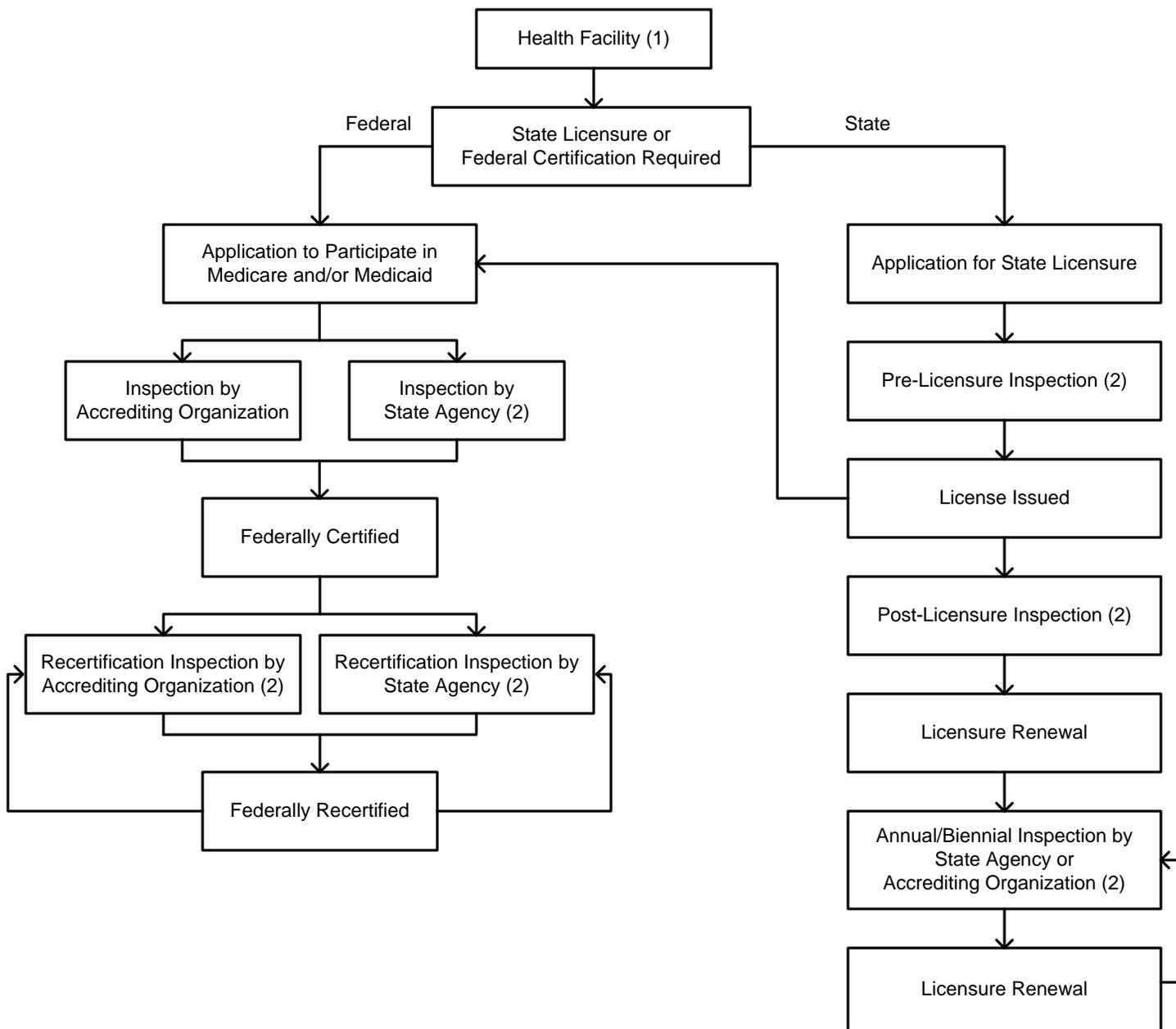
(2) Deeming authority is the authority granted by CMS to accrediting organizations to determine, on CMS's behalf, whether an M+C (Medicare + Choice) organization evaluated by the accrediting organization is in compliance with corresponding Medicare and Medicaid regulations.

(3) Accrediting organizations include:

- AAAASF - American Association for Accreditation of Ambulatory Surgery Facilities
- AAAHC - Accreditation Association for Ambulatory Health Care
- AABB - American Association of Blood Banks
- ACHC - Accreditation Commission for Health Care
- AOA - American Osteopathic Association
- ASHI - American Society for Histocompatibility and Immunogenetics
- CHAP - Community Health Accreditation Program
- CIHQ - Center for Improvement in Healthcare Quality
- COLA - Commission on Office Laboratory Accreditation
- DNV - Det Horske Veritas Healthcare
- HFAP - Healthcare Facilities Accreditation Program
- JC - Joint Commission

Source: The Office of the Auditor General compiled this exhibit based on information obtained from the Health Facilities Division.

HEALTH FACILITIES DIVISION
Bureau of Health Care Services
Department of Licensing and Regulatory Affairs
State Licensure and Federal Certification Overview



(1) A health facility is a facility or an agency inspected or surveyed for State licensure or a provider or a supplier inspected or surveyed for federal certification.

(2) If there is noncompliance noted during the inspection, a plan of correction by the facility is required to be submitted for approval to the State agency or to the Centers for Medicare and Medicaid Services for an accrediting organization inspection. A revisit may be required and enforcement action can be taken if determined necessary. Once the facility is in compliance, it can move on to the next step.

Source: The Office of the Auditor General compiled this exhibit based on information obtained from the Health Facilities Division.

GLOSSARY

Glossary of Abbreviations and Terms

accredited	The status of a health facility that has met standards set by private, nationally recognized groups that check on the quality of care provided by that health facility to earn a seal of approval. Organizations that accredit Medicare managed care plans include the National Committee for Quality Assurance, the Joint Commission, and the American Accreditation HealthCare Commission/URAC.
BHCS	Bureau of Health Care Services.
Centers for Medicare and Medicaid Services (CMS)	The federal agency that runs the Medicare program and the Medicaid program. HFD works with CMS to ensure that health facilities, agencies, and programs that receive funding under these programs are providing high quality health care to eligible beneficiaries.
certification	Systematic procedure for evaluating, describing, testing, and authorizing systems or activities prior to or after a system is in operation.
CLIA	Clinical Laboratory Improvement Amendments of 1988.
effectiveness	Success in achieving mission and goals.
FSOF	freestanding surgical outpatient facility.
health facilities, agencies, and programs	In this report, the non-nursing home health facilities, agencies, and programs that LARA licenses and inspects or surveys for State requirements and/or federal certification requirements.
HFD	Health Facilities Division.

internal control	The plan, policies, methods, and procedures adopted by management to meet its mission, goals, and objectives. Internal control includes the processes for planning, organizing, directing, and controlling program operations. It also includes the systems for measuring, reporting, and monitoring program performance. Internal control serves as a defense in safeguarding assets and in preventing and detecting errors; fraud; violations of laws, regulations, and provisions of contracts and grant agreements; or abuse.
Joint Commission	An independent, not-for-profit organization that accredits and certifies more than 20,000 health care organizations and programs in the United States. Joint Commission accreditation and certification are recognized nationwide as symbols of quality that reflects an organization's commitment to meeting certain performance standards.
LARA	Department of Licensing and Regulatory Affairs.
License 2000® (L2000)	A Windows-based application that provides comprehensive licensing and administrative support for licensing agencies.
material condition	A matter that, in the auditor's judgment, is more severe than a reportable condition and could impair the ability of management to operate a program in an effective and efficient manner and/or could adversely affect the judgment of an interested person concerning the effectiveness and efficiency of the program.
mission	The main purpose of a program or an entity or the reason that the program or the entity was established.
performance audit	An audit that provides findings or conclusions based on an evaluation of sufficient, appropriate evidence against criteria. Performance audits provide objective analysis to assist management and those charged with governance and

oversight in using the information to improve program performance and operations, reduce costs, facilitate decision making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability.

reportable condition

A matter that, in the auditor's judgment, is less severe than a material condition and falls within any of the following categories: an opportunity for improvement within the context of the audit objectives; a deficiency in internal control that is significant within the context of the audit objectives; all instances of fraud; illegal acts unless they are inconsequential within the context of the audit objectives; significant violations of provisions of contracts or grant agreements; and significant abuse that has occurred or is likely to have occurred.

SALS

Substance Abuse Licensure System.

